

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Vernice L. James,

Plaintiff

v.

United States¹,

Defendant.

C/A. No. 3:16-cv-2041-CMC-BM

Opinion and Order

This matter is before the court on Plaintiff's complaint alleging libel and slander pursuant to the Federal Tort Claims Act, 28 U.S.C. § 2671, *et seq.* On February 24, 2017, Defendant filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(1), arguing lack of subject matter jurisdiction because there is no waiver of sovereign immunity for intentional torts of slander and libel. ECF No. 32. A *Roseboro* Order was mailed to Plaintiff on February 27, 2017, advising her of the importance of a dispositive motion and the need to file an adequate response. ECF No. 33. Plaintiff filed a response in opposition to the motion to dismiss on April 4, 2017. ECF No. 37.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(g), D.S.C., this matter was referred to United States Magistrate Judge Bristow Marchant for pre-trial proceedings and a Report and Recommendation ("Report"). On April 12, 2017, the Magistrate Judge issued a Report recommending that Defendant's motion to dismiss be granted and this matter dismissed with prejudice. ECF No. 39. The Magistrate Judge advised the parties of the procedures and

¹ By Order filed March 6, 2017, the United States was substituted as Defendant for Walter Herin, Jr. *See* ECF No. 35.

requirements for filing objections to the Report and the serious consequences if they failed to do so. The parties have filed no objections, and the time for doing so has expired.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b).

After considering the record, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court agrees with the Report's recommendation that the complaint should be dismissed. Accordingly, the court adopts the Report by reference in this Order. Defendant is entitled to dismissal as to all claims with prejudice.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
Senior United States District Judge

Columbia, South Carolina
May 2, 2017